

REMARKS

The Applicant has filed the present Amendment pursuant to 37 C.F.R. § 1.114 concurrently with a Request for Continued Examination (RCE), in reply to the outstanding Final Rejection of August 19, 2003 and the Advisory Action of February 19, 2004. The Applicant believes the Amendment to be fully responsive to the Final Rejection for the reasons set forth below.

In the Final Rejection, the Examiner first rejected Claim 9 pursuant to 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. The Examiner further rejected Claim 9 pursuant to 35 U.S.C. § 103(a), as allegedly unpatentable over Forn Marsal, et al. (German Pat. No. 25 26 961) (hereinafter "Forn Marsal") in view of Clayton, et al. (German Pat. No. 24 36 228) (hereinafter "Clayton") and Benoit (U.S. Pat. No. 5,149,201).

At the outset and before addressing the rejections raised in the Final Rejection, the Applicant has cancelled the only pending Claim 9 without prejudice or disclaimer. The Applicant has further added new Claims 10-19, directed to a plastic shopping. In accordance with the present invention, the plastic shopping bag of independent Claims 10 and 15 comprises a pair of opposing front walls, each front wall having a top edge and a bottom edge of equal lengths, and a left and right edges. The shopping plastic bag further comprises a plurality of gussets forming each of a pair of opposing side walls, each gusset having a triangular bottom part with a first and second edges. Lastly, the shopping plastic bag comprises a flat bottom formed connecting together the bottom edge of each

front wall, bottom parts of the left and right edges of each front wall and the first and second edges of the triangular bottom part of each gusset, the flat bottom distending laterally from the front walls. Furthermore, in accordance with the plastic shopping bag of independent Claim 15, each front wall and triangular part of each gusset has a fold edge, and the flat bottom of Claim 10 is defined by the fold edge of each front wall and the fold edge of the triangular bottom part of each gusset. The support for the foregoing new claims is found in the specification as filed on page 3, lines 6-15; page 6, lines 11-22; page 6, line 23 – page 7, line 16; page 8, lines 14-21; and page 8, line 23 – page 9, line 13. The Applicant respectfully submits that no new subject matter has been entered.

The Applicant has further taken this opportunity to amend the specification, providing editorial and grammatical corrections as recited herein. The Applicant respectfully submits that no new subject matter has been entered.

In traversing the rejection of Claim 9 pursuant to 35 U.S.C. § 112, second paragraph, the Applicant respectfully submits that this rejection is now moot in view of the cancellation of Claim 9. Consequently, the Applicant respectfully requests the Examiner to withdraw the rejection of Claim 9 pursuant to 35 U.S.C. § 112, second paragraph.

In traversing the rejection of Claim 9 pursuant to 35 U.S.C. § 103(a), the Applicant the Applicant respectfully submits that this rejection is now moot in view of the cancellation of Claim 9. Consequently, the Applicant respectfully requests the Examiner to withdraw the rejection of Claim 9 pursuant to 35 U.S.C. § 103(a), second paragraph.

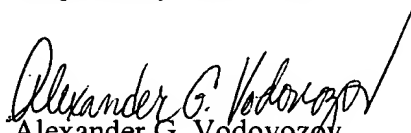
In addition to the foregoing, the Applicant respectfully submits that the foregoing new claims are patentably distinct over the prior cited prior art references to Forn Marsal, Clayton and Benoit. More specifically, the Applicant respectfully submits that the foregoing prior art references are defective, individually or in combination, in that they do not teach or suggest a plastic shopping bag, as particularly recited in the new Claims 10 and 15. That is, none of the prior art references, individually or in combination, teaches or suggests a plastic shopping bag comprising a flat bottom formed connecting together the bottom edge of each front wall, bottom parts of the left and right edges of each front wall and the first and second edges of the triangular bottom part of each gusset, the flat bottom distending laterally from the front walls.

The primary prior art reference to Forn Marsel teaches a plurality of folds (gussets) on each side wall in a bellows-type structure that does not have a flat bottom that distends laterally from the front walls, as particularly recited in Claims 10 and 15. The secondary prior art reference to Clayton teaches reinforcing ribs, but is particularly silent regarding a plastic bag comprising a flat bottom that distends laterally from the front walls, as recited in Claims 10 and 15. Therefore, Clayton fails to rectify the deficiency in Forn Marsel. The tertiary prior art reference to Benoit teaches a single gusset on each side wall and a flat bottom that does not distend laterally from the front walls. In fact Benoit teaches away from the bottom distending laterally from the front walls in accordance the present invention (See Benoit, Col. 4, lines 13-17). That is, Benoit merely teaches a rectangular bottom. To the contrary of the claimed invention, Benoit's top and bottom edge of each front wall are of different lengths, being sealed to

the gusset walls to form the rectangular bottom. Thus, Benoit further fails to rectify the deficiency identified in Forn Marsel. However, even if *arguendo* Forn Marsel and Benoit were combined as alleged by the Examiner, the hypothetical Forn Marsel-Benoit combination would teach a plurality of gussets on each side wall and a rectangular bottom, which does not extend laterally from the front walls. However, as depicted in the present Figs. 5 and 6, and particularly recited in Claims 10 and 15, the flat bottom includes triangular bottom parts of the gussets, which enable the flat bottom to distend laterally from the front walls. Consequently, the Applicant respectfully submits that none of the prior art references, individually or in combination, teaches or suggests a plastic shopping bag as particularly recited in the Claims 10 and 15.

In view of the foregoing, the Applicant believes this application is in condition for allowance and the Applicant henceforth respectfully solicits such allowance. If the Examiner believes a telephone conference might expedite the allowance of this application, the Applicant respectfully requests the Examiner to call the undersigned, Applicant's attorney, at the following telephone number (516) 746-8000.

Respectfully submitted,


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